

Serial No.: 10/777,801

## REMARKS

### Status of Claims

Claims 1-33 remain pending in the application. Claims 1-24 are under examination. Claims 25-33 are presently withdrawn from consideration.

Paragraph [0014] is amended herein.

### Rejection under 35 USC §112, first paragraph

Claims 1-24 are rejected under 35 USC §112, first paragraph as allegedly failing to comply with the written description requirement.

According to the final Office Action, claim 1 as amended sets forth a region which comprises either the therapeutic agent (i.e., a carrier region) or a region that is disposed over the therapeutic agent (i.e., a barrier region). Citing paragraphs [0014] to [0017], the Office Action further states that it is clear from the specification that the medical article many contain *both* a carrier region and a barrier region, but erroneously concludes that that selection of one or the other somehow constitutes new matter.

Applicant had previously responded that, while it is clearly the case that the article may comprise *both* a carrier region and a barrier region (see paragraphs [0015] to [0016]), it is equally clear from the specification that the medical article may comprise *either* a carrier region *or* a barrier region (see, e.g., paragraph [0044]).

Moreover, it was further noted that claim 1 was previously amended based on language that was copied essentially *verbatim* from original claims 2 and 3. The fact that claim 2 refers to claim 1 and the fact that claim 3 refers to claim 1 (as opposed to claim 2) provides further clear support for the selection of either a carrier region or a barrier region (as opposed to both). "It is now well accepted that a satisfactory [written] description may be in the claims or any other portion of the originally filed specification." MPEP 2163, citing *In re Koller*, 613 F.2d 819, 204 USPQ 702 (CCPA 1980) (original claims constitute their own description); accord *In re Gardner*, 475 F.2d 1389, 177 USPQ 396 (CCPA 1973); accord *In re Wertheim*, 541 F.2d 257, 191 USPQ 90 (CCPA 1976).

Serial No.: 10/777,801

Despite this evidence, the Examiner maintained the rejection under 35 USC §112, first paragraph, in the Advisory Action mailed December 3, 2008, which Applicant respectfully traverses.

However, the Examiner also indicated that, because the claim limitations at issue are original claim limitations, amendment of the specification to include these limitations would overcome the rejection under 35 USC 112, first paragraph, for written description.

This has been done with the amendment of paragraph [0014] herein. Withdrawal of the outstanding rejection under 35 USC 112, first paragraph, for written description, is therefore requested.

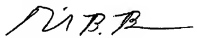
### CONCLUSION

The Examiner further indicated in the Advisory Action that, barring the finding of new art, the application would be in condition for allowance.

It is thus believed that all claims are presently in condition for allowance. Should the Examiner be of the view that an interview would expedite consideration of the application, request is made that the Examiner telephone the Applicants' attorney at (703) 433-0510 in order that any outstanding issues be resolved.

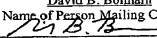
The Office is authorized to charge any fees required, to deposit account number 50-1047.

Respectfully submitted,

  
David B. Bonham  
Registration No. 34,297

Attorney for Applicant  
Mayer & Williams, PC  
251 North Avenue West, 2<sup>nd</sup> Floor  
Westfield, NJ 07090  
703-433-0510 Tel  
703-433-2362 Fax

I hereby certify that this correspondence is being deposited  
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David B. Bonham  
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